

Deficiency Progress Report – Update 5

Report Submitted: 10/13/08

CUPA Name: San Joaquin County Environmental Health
Evaluation Date: July 18 and 19, 2007

Evaluation Team:

Kareem Taylor, *Cal/EPA*
Mark Pear, *DTSC*
Fred Mehr, *OES*
Francis Mateo, *OSFM*

Corrected Deficiencies: [1](#), [2](#), [4](#), [5](#)

Next Progress Report (Update 6) Due: [January 12, 2009](#)

[Please update the deficiencies below that remain outstanding.](#)

1. **Deficiency:** In the Annual Single Fee Summary Report (Report 2) for fiscal year (FY) 05/06, the CUPA did not including the amount of single fee billed and collected for its participating agency (PA) into the total amount of single fee billed and collected. Refer to the row in Report 2 labeled "Single Fee."

Preliminary Corrective Actions: On September 30, 2007, submit the CUPA's FY 06/07 Summary Report 2 that correctly reports the total single fee billed and collected in the "Single Fee" row. This row is for reporting the sums of the single fee billed, waived, and collected for the CUPA and its PA.

CUPA's 1st Update (10-16-07): See Report 2 attached.

[Cal/EPA's 1st Response:](#) Due to the CUPA's corrective actions, this deficiency is considered corrected.

2. **Deficiency:** In the Annual Enforcement Summary Report (Report 4) for FYs 03/04 through 05/06, the CUPA did not report the correct number of facilities with violations. There was a substantially larger number of routine inspections that return to compliance (RTC) reported in Annual Inspection Summary Report (Report 3) than the number of facilities cited for violations.

Preliminary Corrective Actions: On September 30, 2007, submit the CUPA's FY 06/07 Summary Report 4 that correctly reports the number of

facilities with violations and the number of informal enforcement actions for each program element.

CUPA's 1st Update (10-16-07):

Response for Business Plans: This was a problem of interpretation. Sometimes the violation is corrected on site and does not go further. Sometimes the inspection report indicates a deficiency that is corrected within the 10 day deadline. We may count those but did not consider all of them an informal enforcement action. For uncorrected deficiencies and for deficiencies outside of inspections, a DA letter is sent. We considered that an informal enforcement action. Then Civil Enforcement and Criminal Enforcement actions are counted if the DA files on the business based on our referral.

The 06/07 report indicates routine inspections that returned to compliance if the correction was within the 10 day deadline following inspection, it indicates informal enforcement actions if a DA letter (the second step of routine compliance) is sent to the business, and enforcement actions if the DA files an action against a business based on our referral.

Response for all program elements: We believe everything reported was correct but our interpretations of how to report compliance actions was not the same as the State's.

Please see reports 3 & 4 attached.

Cal/EPA's 1st Response: Due to the CUPA's corrective actions, this deficiency is considered corrected.

3. **Deficiency:** The CUPA's PA is not inspecting CalARP facilities once every three years.

Preliminary Corrective Actions: By July 19, 2008, the CUPA's PA will inspect at least one-third of its CalARP facilities.

Amended Corrective Action: By July 19, 2009, the CUPA's PA will inspect at least two-thirds (or about 87) of its CalARP facilities. The CUPA has already inspected 26 facilities in FY 07/08, so 61 facilities should be inspected by July 19, 2009.

CUPA's 1st Update (10-16-07): Due to emergency response and staff turnover we did not inspect enough CalARP sites last year. We have reassigned this function to a more experienced staff member and reviewed the program to ensure that inspection rates go up. We should attain compliance by July 2008.

Cal/EPA's 1st Response: Please submit with the next status report an action plan for 2008 on correcting this deficiency that includes but is not limited to: staffing for conducting inspections, actual number of routine inspections conducted per month/quarter/fiscal year, total number of CalARP regulated facilities.

CUPA's 2nd Update (1-11-08): RMP program was reassigned within the office and a plan for re-establishing a proper inspection schedule worked out. A goal of 25 RMP inspections for the period of December 1, 2007 to February 29, 2008 was established and the list of RMP facilities currently working on a RMP or due for a five-year inspection was re-confirmed. Facilities scheduled for inspection in 2008 were entered in the HMMP Administration Module. As of January 11, 2008 4 RMP inspections have been conducted.

Cal/EPA's 2nd Response: Refer to OES's comments.

- **OES's Comments:** OES is satisfied with the CUPA's efforts in correcting the deficiency.

The San Joaquin CUPA is making progress on their CalARP inspections. OES looks forward to following the CUPA's continued efforts to correct this deficiency.

CUPA's 3rd Update (4-14-08): 15 CalARP inspections were performed since the last report.

Cal/EPA's 3rd Response: Out of the 132 CalARP facilities reported in the FY 06/07 Annual Inspection Summary Report, the CUPA should inspect at least 44 (1/3 of the 132) of those facilities by July 2008 to meet the corrective action goal. Judging from the updates, the CUPA has inspected about 19 facilities which is a vast improvement over the previous FYs inspections (5 in FY 06/07 and 3 in FY 05/06). The CUPA should continue in its effort to meet the corrective action goal.

On the next progress report, report the total number of CalARP routine inspections performed for FY 07/08.

CUPA's 4th Update (7-14-08): Seven more CalARP inspections were performed this last quarter totaling 26 inspections for the 07/08 fiscal year. The goal of 44 was not achieved because the OES office has been packing to move their office to a new location after being in the same location for over 20 years. This takes a lot of time and resources which impacts the inspection program.

Cal/EPA's 4th Response: The completion date for the correction of this deficiency has passed (7-19-08). Because of the OES office move, the CUPA has not been able to meet the corrective action goal stated in the CUPA's 2007 Summary of Findings. Cal/EPA and OES have decided to modify the corrective action giving the CUPA until July 19, 2009 to complete two-thirds of its CalARP routine inspections. Please refer to the amended corrective action above. If this is not feasible, please contact me so that we can work out an acceptable corrective action for the CUPA and Cal/EPA. Please refer to OES's response.

- **OES's Response:** OES is satisfied with the CUPA's efforts in correcting the deficiency.

OES would like San Joaquin CUPA's PA to inspect two-thirds of its CalARP facilities by July 19, 2009. OES looks forward to following the CUPA's continued efforts to correct this deficiency.

CUPA's 5th Update (10-13-08): Five CalARP inspections have been performed between 7/01/08 through 9/30/08.

Cal/EPA's 5th Response: Please refer to OES's comments.

- **OES's Response:** OES is satisfied with the CUPA's efforts in correcting the deficiency.

OES would like San Joaquin CUPA's PA to inspect two-thirds of its CalARP facilities by July 19, 2009. OES looks forward to following the CUPA's continued efforts to correct this deficiency.

CUPA's 6th Update: Enter update here

4. **Deficiency:** The CUPA has not established a Cal ARP dispute resolution procedure.

Preliminary Corrective Actions: By October 19, 2007, establish a CalARP dispute resolution procedure that contains all of the required element of Title 19, Section 2780.1(a)

CUPA's 1st Update (10-16-07): Dispute resolution is attached.

Cal/EPA's 1st Response: Due to the CUPA's corrective actions, this deficiency is considered corrected.

5. **Deficiency:** The CUPA did not conduct a complete oversight inspection on 03/21/07.

Preliminary Corrective Actions: none

Cal/EPA's 1st Response: This deficiency was corrected onsite.

6. **Deficiency:** The CUPA is not conducting inspections with a frequency that is consistent with its Inspection and Enforcement Plan and with the inspection of other program elements. The CUPA has not inspected all 1257 hazardous waste generators (HWG) that have been identified by the CUPA in the last three fiscal years.

Preliminary Corrective Actions: By July 19, 2008, the CUPA will inspect at least one-third of its HWG facilities.

Additional resources need to be committed to the hazardous waste program.

Amended Corrective Action: By July 19, 2009, the CUPA will inspect at least one-third (or about 204) of its HWG facilities for FY 08/09.

CUPA's 1st Update (10-16-07): We have had a 100% turn over in staff the last 3 years. We will be completely staffed as of October 29, 2007. Complete staffing will allow us to get our scheduled inspections performed once every 3 years for the small hazardous waste generators and annually for the hazardous waste generators over 5 tons, consistent with our Inspection and Enforcement Plan. If we find that staffing is an issue because of the increased workload associated with following up on enforcement referrals then we will reevaluate our staffing at that time.

Cal/EPA's 1st Response: On the next status report, report the total number of hazardous waste generator routine inspections performed since July 1, 2007. Also, report on the current staffing progress.

CUPA's 2nd Update (1-11-08): The total number of hazardous waste generator inspections performed since July 1, 2007 is 81. This has been done with 4 field staff even though we are funded for 6. One staff person left 2 months ago and one is still in training but will begin hazardous waste generator inspections on his own next month.

As of January 1, 2008 we have a new CUPA Program Element, the Aboveground Petroleum Storage Act, and we will be adding a position to implement that program as well. That makes us two people short at this time.

Regarding our progress obtaining staff, I can report that we continue to interview applicants but have not hired any as of yet. Due to the projected fiscal shortfall this coming year from housing foreclosures in our county

("...the nation's foreclosure capital" according to NPR, Morning Edition, December 28, 2007) and the projected reductions in funding coming from the State of California, which our Environmental Health Department relies on heavily for some programs that depend on General Fund dollars, we are considering the option of redirecting staff within our department to help with the CUPA and other Environmental Health programs. We have every intention of filling all of the open positions in the CUPA program.

Cal/EPA's 2nd Response: Refer to DTSC's comments.

- **DTSC's Comments:** In order for the CUPA to meet the goal of inspecting one third of the 1257 generators by July 2008, the CUPA needs to inspect 34 generators per month and, therefore, should have inspected 204 generators by December 2008. With having inspected only 81 generators from July – December 2007, the CUPA is not on track to meeting the goal. The CUPA has also identified a projected funding shortfall, an additional program element to be implemented, and the need to hire 2 additional staff. On the next status report, please report on the total number of routine hazardous waste generator inspections conducted since July 2007, the current staffing progress, what the CUPA is doing to meet the inspection target, and how the CUPA intends to prioritize the hazardous waste inspections if one third of these inspections will not be done per year.

CUPA's 3rd Update (4-14-08): The total number of hazardous waste generator inspections performed since July 1, 2007 is 155. We hired a part time REHS to help with our workload until we can get full time people to apply or to transfer from within our Department. Our trainee is now inspecting hazardous waste generator facilities along with UST facilities as he just got his UST ICC Inspector certification last week.

Until we are able to fill the other open positions, we will prioritize our hazardous waste generator inspections based on the most out of date (not inspected in the last 3 years) then volume and type of hazardous waste generated.

Because our inspectors are trained to perform thorough inspections and follow up including writing DA cases, there is no plan to change their technique just to increase their number of inspections. It is important to our Department to have quality inspections over quantity. Ultimately, we may need to increase staff but until we can fill our open positions that seems to be a moot point.

Cal/EPA's 3rd Response: Because of the CUPA's staffing shortage, the CUPA is not on track to meet its corrective action goal of inspecting 419

(or 1/3) of its HWG facilities by July 2008. In light of this, the inspections are being prioritized based 1st on facilities that have not been inspected in the last 3 years and then 2nd by the volume and type of hazardous waste generated.

Continue to work towards hiring additional staff so that the CUPA can meet its scheduled inspection frequency. On the next progress report, report the total number of HWG routine inspections performed for FY 07/08, in addition, report any staffing changes.

CUPA's 4th Update (7-14-08): For Fiscal Year 07/08, 255 hazardous waste generator inspections have been performed, which is almost 2/3rds of our target. This has been done with about 2/3rds of our budgeted FTE's.

We are still having a difficult time recruiting qualified staff but we have just been told by our Human Resources (HR) Department that there are potential applicants for us to interview. Once the HR Department determines who the qualified applicants are we will be provided with a list of applicants to interview and hopefully hire.

Cal/EPA's 4th Response: The completion date for the correction of this deficiency has passed (7-19-08). Because of staffing issues, the CUPA has not been able to meet the corrective action goal stated in the CUPA's 2007 Summary of Findings. Cal/EPA and DTSC have decided to modify the corrective action giving the CUPA until July 19, 2009 to complete at least one-third of its HWG routine inspections for FY 08/09. Please refer to the amended corrective action above. If this is not feasible, please contact me so that we can work out an acceptable corrective action for the CUPA and Cal/EPA. Refer to DTSC's response.

- **DTSC's Response:** Please continue to keep DTSC informed of the CUPA's efforts to meet inspection goals.

CUPA's 5th Update (10-13-08): We have inspected 70 hazardous waste facilities between 7/01/08 through 9/30/08.

Cal/EPA's 5th Response: Please refer to DTSC's comments.

- **DTSC's Response:** Please keep DTSC informed of the CUPA's efforts to meet its inspection goals.

CUPA's 6th Update: Enter update here